

# Court of Appeals, State of Michigan

## ORDER

People of MI v Oussama Talao Othman

Docket No. 281625

LC No. 05-010371-01

Kurtis T. Wilder  
Presiding Judge

Brian K. Zahra

Kirsten Frank Kelly  
Judges

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The Court orders that the motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(D)(2), the August 21, 2007, amended judgment of sentence of the Wayne County Circuit Court is VACATED. It appears from the limited record provided that defendant's original sentence was invalid because the maximum portion of the indeterminate sentence was not the maximum penalty provided by law for defendant's guilty-plea conviction of operating a motor vehicle while impaired, third offense, MCL 257.625(9)(c). See MCL 769.8(1). Because correction of an invalid maximum sentence is a ministerial act, and does not require a full resentencing, *People v Miles*, 454 Mich 90, 99; 559 NW2d 299 (1997), citing *People v Maxson*, 163 Mich App 467; 415 NW2d 247 (1987), the February 20, 2007 amended judgment of sentence, which increased defendant's maximum sentence to five years, appears valid, and thus, the court could not subsequently modify defendant's sentence to 30 days. MCR 6.429(A).

However, the matter is REMANDED to the trial court for an articulation of the authority upon which the trial court relied in modifying defendant's sentence. The trial court is directed to conduct a hearing within 56 days from the Clerk's certification of this order and shall appoint counsel for defendant before the hearing. A transcript of the hearing shall be prepared at the prosecution's expense and filed by the court reporter within seven days from the date of the hearing, and the prosecution shall immediately file a copy of the transcript with this Court.

The Court further orders that the motion to waive production of the transcripts is GRANTED for purposes only of filing the application. The court reporter, Francis Dixon, is directed to prepare and file the transcripts requested by the prosecution on October 26, 2007, within 14 days from the Clerk's certification of this order, and the prosecution shall immediately file copies of the transcripts with this Court and serve them upon appointed counsel.

The Court retains jurisdiction over this matter.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 14 2007

Date

*Sandra Schultz Mengel*  
Chief Clerk